

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86563274
LAW OFFICE ASSIGNED	LAW OFFICE 104
MARK SECTION	
MARK	<a href="http://tmng-al.uspto.gov/resting2/api/img/86563274/large">http://tmng-al.uspto.gov/resting2/api/img/86563274/large</a>
LITERAL ELEMENT	THIRST RESPONDER
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
Registration has been refused under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), based on the cited registrations principally related to footwear and promotional items for such footwear and the Applicant is providing amendment of the specification of goods to except the Registrant's goods and to attempt to eliminate this refusal under Section 2(d), 15 U.S.C. Section 1052(d), within the TEAS functionality afforded for that purpose.	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, hats and caps, caps with visors, knitted caps	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	

~~Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, hats and caps, caps with visors, knitted caps; Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, caps, caps with visors, knitted caps, and exclusive of footwear, boots and shoes and promotional items for footwear, boots and shoes~~

#### FINAL DESCRIPTION

Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, caps, caps with visors, knitted caps, and exclusive of footwear, boots and shoes and promotional items for footwear, boots and shoes

#### FILING BASIS

Section 1(b)

#### SIGNATURE SECTION

##### RESPONSE SIGNATURE

/Kevin Oliveira/

##### SIGNATORY'S NAME

Kevin Oliveira

##### SIGNATORY'S POSITION

Attorney of record, Virginia bar member

##### SIGNATORY'S PHONE NUMBER

(703) 218-2138

##### DATE SIGNED

02/01/2016

##### AUTHORIZED SIGNATORY

YES

##### CONCURRENT APPEAL NOTICE FILED

YES

#### FILING INFORMATION SECTION

##### SUBMIT DATE

Mon Feb 01 14:40:58 EST 2016

##### TEAS STAMP

USPTO/RFR-XX.XXX.XX.XX-20  
160201144058786495-865632  
74-55041bd3a697195e7a5e03  
cfda0727f81ac2dbf692fc11a  
33fa2f95599e586db39-N/A-N  
/A-20160201143420239022

## **Request for Reconsideration after Final Action To the Commissioner for Trademarks:**

Application serial no. **86563274** THIRST RESPONDER(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86563274/large>) has been amended as follows:

### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

Registration has been refused under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), based on the cited registrations principally related to footwear and promotional items for such footwear and the Applicant is providing amendment of the specification of goods to except the Registrant's goods and to attempt to eliminate this refusal under Section 2(d), 15 U.S.C. Section 1052(d), within the TEAS functionality afforded for that purpose.

### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 025 for Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, hats and caps, caps with visors, knitted caps  
Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

### **Proposed:**

**Tracked Text Description:** ~~Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, hats and caps, caps with visors, knitted caps;~~ Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops,

wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, caps, caps with visors, knitted caps, and exclusive of footwear, boots and shoes and promotional items for footwear, boots and shoes

Class 025 for Clothing, namely, t-shirts, golf shirts, sweat shirts, shirts, hooded sweat shirts, knit shirts, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, blouses, sport shirts, sweat pants, sweat shorts, sweat suits, lounge pants, pants, trousers, belts, jerseys, short sets, ties, neckties, tops, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, wrap-arounds, briefs, thongs and underwear, headgear, namely, caps, caps with visors, knitted caps, and exclusive of footwear, boots and shoes and promotional items for footwear, boots and shoes

**Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /Kevin Oliveira/ Date: 02/01/2016

Signatory's Name: Kevin Oliveira

Signatory's Position: Attorney of record, Virginia bar member

Signatory's Phone Number: (703) 218-2138

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86563274

Internet Transmission Date: Mon Feb 01 14:40:58 EST 2016

TEAS Stamp: USPTO/RFR-XX.XXX.XX.XX-20160201144058786

495-86563274-55041bd3a697195e7a5e03cfda0

727f81ac2dbf692fc11a33fa2f95599e586db39-  
N/A-N/A-20160201143420239022